

HOUSE BILL 394

J1, M3
HB 952/15 – ENV

6lr1831

By: **Delegates Morhaim, Lam, Carr, Frush, Luedtke, A. Miller, and West**
Introduced and read first time: January 28, 2016
Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Hydraulic Fracturing Chemicals – Information and Fund**

3 FOR the purpose of requiring an applicant for a certain permit for the hydraulic fracturing
4 of a well for the exploration or production of natural gas to submit certain
5 information to the Department of Health and Mental Hygiene in a certain manner;
6 requiring the Department to provide access to certain information to the Maryland
7 Poison Control Center and certain health care providers; authorizing a certain
8 health care provider to provide certain information in a certain manner; requiring a
9 certain health care provider, health professional, or government agency to maintain
10 information and medical records in a certain manner; requiring the Department to
11 establish a certain educational program for certain purposes; establishing the
12 Hydraulic Fracturing Chemical Education and Impact Fund as a special, nonlapsing
13 fund; specifying the purpose of the Fund; requiring the Department to administer
14 the Fund; requiring the State Treasurer to hold the Fund and the Comptroller to
15 account for the Fund; specifying the contents of the Fund; specifying the purpose for
16 which the Fund may be used; providing for the investment of money in and
17 expenditures from the Fund; requiring the Department to establish a certain fee by
18 regulation; establishing a certain civil penalty for certain violations; requiring the
19 civil penalty to be deposited in the Fund; requiring the Department to adopt certain
20 regulations; exempting the Fund from a certain provision of law that requires
21 interest on State money in special funds to accrue to the General Fund; defining
22 certain terms; and generally relating to chemicals used in hydraulic fracturing.

23 BY adding to

24 Article – Health – General
25 Section 22–701 through 22–707 to be under the new subtitle “Subtitle 7. Hydraulic
26 Fracturing Chemicals”
27 Annotated Code of Maryland
28 (2015 Replacement Volume)

29 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement
2 Section 6–226(a)(2)(i)
3 Annotated Code of Maryland
4 (2015 Replacement Volume)

5 BY repealing and reenacting, with amendments,
6 Article – State Finance and Procurement
7 Section 6–226(a)(2)(ii)84. and 85.
8 Annotated Code of Maryland
9 (2015 Replacement Volume)

10 BY adding to
11 Article – State Finance and Procurement
12 Section 6–226(a)(2)(ii)86.
13 Annotated Code of Maryland
14 (2015 Replacement Volume)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Health – General**

18 **SUBTITLE 7. HYDRAULIC FRACTURING CHEMICALS.**

19 **22–701.**

20 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) “FUND” MEANS THE HYDRAULIC FRACTURING CHEMICAL EDUCATION
23 AND IMPACT FUND ESTABLISHED UNDER § 22–704 OF THIS SUBTITLE.

24 (C) “HYDRAULIC FRACTURING” MEANS A DRILLING TECHNIQUE THAT
25 EXPANDS EXISTING FRACTURES OR CREATES NEW FRACTURES IN ROCK BY
26 INJECTING A MIXTURE OF WATER, CHEMICALS, SAND, OR OTHER SUBSTANCES,
27 OFTEN UNDER PRESSURE, INTO OR UNDERNEATH THE SURFACE OF ROCK FOR
28 PURPOSES THAT INCLUDE WELL DRILLING AND THE EXPLORATION OR PRODUCTION
29 OF NATURAL GAS.

30 **22–702.**

31 (A) (1) AN APPLICANT FOR A PERMIT UNDER TITLE 14, SUBTITLE 1 OF
32 THE ENVIRONMENT ARTICLE FOR THE HYDRAULIC FRACTURING OF A WELL SHALL
33 SUBMIT TO THE DEPARTMENT IN A MANNER DETERMINED BY THE DEPARTMENT:

1 **(I) INFORMATION RELATING TO EACH CHEMICAL**
2 **CONSTITUENT OR OTHER DISTINCT MATERIAL, INCLUDING PROPPANTS AND**
3 **ENGINEERED NANOMATERIALS THAT WILL BE USED IN THE HYDRAULIC**
4 **FRACTURING OF THE WELL, INCLUDING:**

5 **1. THE NAME OF THE CHEMICAL CONSTITUENT OR**
6 **OTHER DISTINCT MATERIAL;**

7 **2. A. THE CHEMICAL ABSTRACT SERVICE NUMBER**
8 **FOR THE CHEMICAL CONSTITUENT; OR**

9 **B. IF A CHEMICAL ABSTRACT SERVICE NUMBER DOES**
10 **NOT EXIST, A UNIQUE IDENTIFIER FOR THE CHEMICAL CONSTITUENT, IF AVAILABLE;**
11 **AND**

12 **3. THE MAXIMUM CONCENTRATION, IN PERCENT BY**
13 **MASS, OF THE CHEMICAL CONSTITUENT OR OTHER DISTINCT MATERIAL;**

14 **(II) 1. THE LOCATION OF THE PORTION OF THE WELL IN**
15 **WHICH THE HYDRAULIC FRACTURING WILL TAKE PLACE; AND**

16 **2. THE ANTICIPATED EXTENT OF THE FRACTURES OR**
17 **OTHER MODIFICATIONS TO THE SHALE OR UNDERGROUND GEOLOGIC FORMATION;**

18 **(III) HEALTH AND SAFETY DATA RELATING TO THE CHEMICALS**
19 **THAT WILL BE USED IN THE HYDRAULIC FRACTURING OF THE WELL, INCLUDING**
20 **TOXICOLOGICAL, EPIDEMIOLOGICAL, AND EXPOSURE-RELATED INFORMATION; AND**

21 **(IV) INFORMATION ON CHEMICAL CHANGES THAT MAY OCCUR**
22 **AS A RESULT OF THE HYDRAULIC FRACTURING OF THE WELL, INCLUDING**
23 **INFORMATION ON CHEMICAL REACTIONS TO OTHER CHEMICALS OR SUBSTANCES.**

24 **(2) A PERSON MAY NOT KNOWINGLY OR RECKLESSLY SUBMIT FALSE**
25 **INFORMATION UNDER THIS SUBSECTION.**

26 **(B) THE DEPARTMENT SHALL PROVIDE ACCESS TO THE INFORMATION**
27 **COLLECTED UNDER SUBSECTION (A)(1) OF THIS SECTION:**

28 **(1) TO THE MARYLAND POISON CENTER;**

29 **(2) ON REQUEST, TO A HEALTH CARE PROVIDER THAT SUSPECTS A**
30 **PATIENT MAY HAVE A DISEASE, AN ILLNESS, OR AN INJURY CAUSED BY A CHEMICAL**
31 **USED IN HYDRAULIC FRACTURING; AND**

1 **(3) A PUBLIC HEALTH PROFESSIONAL, TOXICOLOGIST, OR**
2 **EPIDEMIOLOGIST THAT:**

3 **(I) IS EMPLOYED IN THE FIELD OF PUBLIC HEALTH; AND**

4 **(II) SUBMITS A WRITTEN STATEMENT OF NEED FOR THE**
5 **INFORMATION TO THE DEPARTMENT.**

6 **(C) A HEALTH CARE PROVIDER MAY PROVIDE THE INFORMATION RECEIVED**
7 **UNDER SUBSECTION (B) OF THIS SECTION AS PROFESSIONALLY NECESSARY,**
8 **INCLUDING TO:**

9 **(1) THE PATIENT;**

10 **(2) ANY OTHER HEALTH PROFESSIONAL INVOLVED IN THE**
11 **TREATMENT OF THE PATIENT, INCLUDING A TOXICOLOGIST OR PUBLIC HEALTH**
12 **EPIDEMIOLOGIST;**

13 **(3) A FAMILY MEMBER OF THE PATIENT IF THE PATIENT IS UNABLE**
14 **TO MAKE MEDICAL DECISIONS OR IS A MINOR; AND**

15 **(4) THE CENTERS FOR DISEASE CONTROL AND PREVENTION OR ANY**
16 **OTHER GOVERNMENT PUBLIC HEALTH AGENCY.**

17 **(D) A HEALTH CARE PROVIDER, HEALTH PROFESSIONAL, OR GOVERNMENT**
18 **AGENCY SHALL MAINTAIN INFORMATION RECEIVED UNDER SUBSECTION (C) OF THIS**
19 **SECTION AND PATIENT MEDICAL RECORDS IN ACCORDANCE WITH ANY LAW**
20 **RELATING TO CONFIDENTIALITY.**

21 **22-703.**

22 **THE DEPARTMENT SHALL ESTABLISH AN EDUCATIONAL PROGRAM FOR**
23 **HEALTH CARE PROVIDERS ON THE POTENTIAL HEALTH RISKS ASSOCIATED WITH**
24 **CHEMICALS USED IN HYDRAULIC FRACTURING.**

25 **22-704.**

26 **(A) THERE IS A HYDRAULIC FRACTURING CHEMICAL EDUCATION AND**
27 **IMPACT FUND.**

28 **(B) THE PURPOSE OF THE FUND IS TO ADDRESS THE POTENTIAL HEALTH**
29 **RISKS ASSOCIATED WITH CHEMICALS USED IN HYDRAULIC FRACTURING.**

1 (C) THE DEPARTMENT SHALL ADMINISTER THE FUND.

2 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
3 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

4 (2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
5 AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

6 (E) THE FUND CONSISTS OF:

7 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 22-705 OF THIS
8 SUBTITLE;

9 (2) PENALTIES COLLECTED UNDER § 22-706 OF THIS SUBTITLE;

10 (3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

11 (4) ANY INVESTMENT EARNINGS OF THE FUND; AND

12 (5) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
13 THE BENEFIT OF THE FUND.

14 (F) THE FUND MAY BE USED ONLY FOR:

15 (1) FINANCING AN EDUCATIONAL PROGRAM REQUIRED UNDER §
16 22-703 OF THIS SUBTITLE;

17 (2) PROVIDING FINANCIAL ASSISTANCE TO AN INDIVIDUAL WHO HAS
18 AN ILLNESS OR INJURY CAUSED BY A CHEMICAL USED IN HYDRAULIC FRACTURING;
19 AND

20 (3) THE REASONABLE COSTS OF ADMINISTERING THE FUND.

21 (G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
22 IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

23 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID INTO
24 THE FUND.

25 22-705.

26 THE DEPARTMENT SHALL:

1 **(1) ESTABLISH A FEE BY REGULATION FOR THE SUBMISSION OF**
 2 **INFORMATION UNDER § 22-702(A)(1) OF THIS SUBTITLE; AND**

3 **(2) BASE THE FEE ON:**

4 **(I) THE COST TO THE DEPARTMENT FOR ESTABLISHING AN**
 5 **EDUCATIONAL PROGRAM REQUIRED UNDER § 22-703 OF THIS SUBTITLE;**

6 **(II) THE POTENTIAL RISK OF INJURY OR ILLNESS FROM**
 7 **CHEMICALS USED IN HYDRAULIC FRACTURING TO PUBLIC HEALTH AND SAFETY;**
 8 **AND**

9 **(III) THE ADMINISTRATIVE COSTS ASSOCIATED WITH**
 10 **IMPLEMENTING THE REQUIREMENTS OF THIS SUBTITLE.**

11 **22-706.**

12 **(A) A PERSON THAT VIOLATES § 22-702(A) OF THIS SUBTITLE IS SUBJECT**
 13 **TO A CIVIL PENALTY NOT EXCEEDING \$100,000 FOR EACH VIOLATION.**

14 **(B) A CIVIL PENALTY COLLECTED UNDER THIS SECTION SHALL BE**
 15 **DEPOSITED INTO THE FUND.**

16 **22-707.**

17 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
 18 **SUBTITLE.**

19 **Article – State Finance and Procurement**

20 **6-226.**

21 (a) (2) (i) Notwithstanding any other provision of law, and unless
 22 inconsistent with a federal law, grant agreement, or other federal requirement or with the
 23 terms of a gift or settlement agreement, net interest on all State money allocated by the
 24 State Treasurer under this section to special funds or accounts, and otherwise entitled to
 25 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
 26 Fund of the State.

27 (ii) The provisions of subparagraph (i) of this paragraph do not apply
 28 to the following funds:

29 84. the Economic Development Marketing Fund; [and]

1 85. the Military Personnel and Veteran–Owned Small
2 Business No–Interest Loan Fund; AND

3 86. THE HYDRAULIC FRACTURING CHEMICAL
4 EDUCATION AND IMPACT FUND.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2016.